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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DEC 11 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Price Cap Performance Review
for Local Exchange Carriers;
Treatment of Video Dialtone Services
Under Price Cap Regulation

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) CC Docket No. 94-1
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COMMENTS OF BELL ATLANTIC¹

The Commission should deny MCI's² and Cox's³ petitions for reconsideration of the Second Report and Order⁴ in this proceeding. The Commission appropriately concluded that a *de minimis* threshold should be met before requiring video dialtone costs to be removed for purposes of price cap sharing calculations. This threshold will avoid imposing unnecessary administrative burdens on video dialtone providers, while also ensuring that video dialtone has no effect on other rates. In addition, no further amendments to Part 64, Part 36 or any other Commission cost allocation or accounting rule (other than the revisions to Part 69

¹ For the purposes of this filing, the Bell Atlantic companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc., Bell Atlantic-Maryland, Inc., Bell Atlantic-New Jersey, Inc., Bell Atlantic-Pennsylvania, Inc., Bell Atlantic-Virginia, Inc., Bell Atlantic-Washington, D.C., Inc., and Bell Atlantic-West Virginia, Inc.

² Petition for Reconsideration of MCI Telecommunications Corporation, CC Docket No. 94-1 (Nov. 6, 1995) ("MCI Petition").

³ Petition for Reconsideration of Cox Enterprises, Inc., CC Docket No. 94-1 (Nov. 6, 1995) ("Cox Petition").

⁴ Second Report and Order and Third Further Notice of Proposed Rulemaking, CC Docket No. 94-1 (rel. Sept. 21, 1995) ("Second Report and Order").

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previously proposed by Bell Atlantic)⁵ are required to ensure that costs are appropriately allocated to video dialtone and other services.

I. Petitioners' Objections to a De Minimis Threshold Are Meritless

Contrary to petitioners' allegations, the *de minimis* threshold adopted in this proceeding will not result in cross-subsidization, will reduce carriers' administrative burdens, and need not require expensive auditing procedures for enforcement.

First, petitioners' allegations of cross-subsidization are a red herring. There can be no cross-subsidy of video dialtone service, by definition, because video dialtone prices must and will cover all of the incremental costs of providing video dialtone service.⁶ Although the Commission's accounting and tariffing rules also require an allocation of a portion of common costs to video dialtone service, these costs are not incremental to video dialtone service and are irrelevant to cross-subsidization concerns.⁷ In addition, until the true incremental costs, i.e., the investment

⁵ See Bell Atlantic Comments, CC Docket No. 94-1, at 3-4 and Appendix (Oct. 27, 1995) (proposing Part 69 amendments to facilitate assignment of VDT costs to the VDT price cap basket once the *de minimis* threshold is exceeded).

⁶ See Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, 10 FCC Rcd 244, ¶ 213 (1994) ("Video Dialtone Reconsideration Order"); see also Bell Atlantic Telephone Companies Revisions to Tariff F.C.C. No. 10 Rates, Terms and Regulations, Transmittal Nos. 741, 786, Reply of Bell Atlantic, Affidavit of William E. Taylor, Ph.D., ¶ 13 (Mar. 6, 1995) ("Taylor Affidavit").

⁷ Taylor Affidavit, ¶ 13.

and expenses dedicated to video dialtone service, are more than inconsequential, they can have no material impact on sharing calculations or interstate access rates. Moreover, Bell Atlantic and the majority of the price cap companies have opted for a pure price caps alternative under which there can be no concern about potential cross-subsidization.

Second, petitioners are wrong that carriers would have only a minimal administrative burden if they were not permitted to exclude *de minimis* costs or revenues before performing sharing calculations.⁸ It is true that carriers will be required to perform the initial function of tracking dedicated video dialtone costs (or video dialtone revenues) in accordance with the requirements of Responsible Accounting Officer Letter 25 ("RAO 25"),⁹ which will also serve as the basis for determining when the *de minimis* threshold has been exceeded. Video dialtone costs, as with all other costs associated with regulated services, will also be allocated to the interstate and intrastate jurisdictions in accordance with the requirements of Part 36. But carriers will not be required to allocate those costs among the interstate price cap baskets through the Part 69 process until video dialtone costs

⁸ See MCI Petition at 5-6; Cox Petition at 6-7.

⁹ For a description of the problems created by the requirements of RAO 25, see **Accounting and Reporting Requirements for Video Dialtone Service, RAO Letter 25**, DA 95-703, Bell Atlantic Application for Review (filed May 3, 1995) and Reply Comments of Bell Atlantic (filed June 9, 1995). In addition, RAO 25 is not required to determine whether the threshold level has been reached. See Bell Atlantic Comments, CC Docket No. 94-1, at 4-5 (Oct. 27, 1995).

reach a more than inconsequential level that could have a meaningful effect on those Part 69 allocations and the related impact on interstate access rates that might result from potential sharing requirements.

Finally, if the Commission adopts a *de minimis* threshold based on video dialtone **revenues** as a percentage of overall interstate revenues, rather than video dialtone **costs**, the Commission's costs to monitor and audit compliance will be minimal. No interpretive differences concerning proper cost assignments will arise, and no special studies or allocations will be required. In addition, there would be no need to take into account differences in particular technologies or network configurations used by individual companies.

II. The Commission's Existing Cost Allocation Rules Appropriately Allocate Costs to Each Service

Cox again urges the Commission here to amend either Part 64 or Part 36 of its rules to prescribe a methodology for separating video costs from telephone costs. Such amendments are illogical and unnecessary. Moreover, the Commission specifically rejected these arguments in the Video Dialtone Reconsideration Order,¹⁰ and Cox offers no basis to alter that decision.

Cox's suggestion that the Commission amend Part 64¹¹ reveals that Cox completely misunderstands the purpose of those rules, which is to separate costs between regulated and non-

¹⁰ Video Dialtone Reconsideration Order, ¶ 162.

¹¹ Cox Petition at 4.

regulated services. Since both telephone and video dialtone service are regulated services, Part 64 has no bearing on the issue.

Cox's suggestion that the Commission amend Part 36 to accomplish that same result is also unreasonable and unnecessary. As the Commission has previously determined,¹² the existing rules do not require modification to provide for allocation of video dialtone costs to the interstate or intrastate jurisdiction. Cox's assertion that video dialtone-specific Part 36 rule changes are required has already been considered and rejected by the Commission.¹³

Cox's suggestion that the Commission mandate that carriers allocate 50% of network rebuild costs to video dialtone and 50% to regulated telephone services is wholly arbitrary and without any reasoned basis. Other methodologies proposed by carriers for making such allocations, such as Bell Atlantic's proposal to allocate common costs on the basis of the functions each equipment component actually performs, are more reasonable and are based on Commission precedent for other regulated services. Moreover, the Commission's rules correctly recognize that, due to the myriad variations in network configurations and technologies

¹² Video Dialtone Reconsideration Order, ¶ 186.

¹³ *Id.* ¶ 169. The Commission noted that any comprehensive but non-service specific review it may undertake of its Part 36 or 69 rules would encompass video dialtone as well as other regulated services, but confirmed that its existing rules already "adequately protect consumers against improper cross-subsidy and anti-competitive activity at this time." *Id.*

among companies -- not just for video dialtone service -- no standard methodology for allocating common costs is appropriate.

Cox's request that the Commission prescribe how carriers may allocate costs between Category 1 and Category 2 cable and wire facilities to ensure that carriers do not allocate inappropriate amounts of investment to the intrastate jurisdiction¹⁴ also reflects a lack of understanding of the Part 36 rules. Part 36.155(a) already requires that cable and wire facilities be assigned directly to the interstate or intrastate jurisdictions, where feasible. Moreover, the Commission's rules also provide for carriers to categorize cable and wire facilities costs on the basis of engineering studies or other objective criteria.¹⁵

For example, in Dover Township, New Jersey, the cost of the cable and wire facilities for Bell Atlantic's network will be allocated to video dialtone and non-video dialtone services using appropriate engineering records, which is comparable to the methodology used in Bell Atlantic's tariff for pricing purposes.¹⁶ All video dialtone cable and wire facility costs will be

¹⁴ Cox Petition at 4-5.

¹⁵ See 47 C.F.R. § 36.151(c). Cox incorrectly asserts that the Commission's rule requiring allocation between cable and wire facility categories based on "conductor cross section", 47 C.F.R. §36.153(a)(1), requires an allocation based on bandwidth. That rule allows costs to be allocated based on an analysis of sections of cable, but such a measure has nothing to do with bandwidth. Bandwidth is a function of the type of circuit equipment used and not simply a count of the number of fibers.

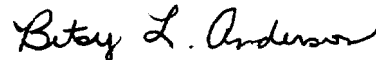
¹⁶ See Direct Case, **Bell Atlantic Telephone Companies, Revisions to Tariff FCC No. 10, Rates, Terms and Regulations for Video Dialtone Service in Dover Township, New Jersey**, Trans. Nos. 741, 786, CC Docket No. 95-145, Issue C (Oct. 26, 1995).

categorized as Category 2 (wideband). Because the Dover system will initially carry as a video dialtone service only video programming that has originated as radio or satellite-delivered signals, 100% of Category 2 wideband costs will be allocated to the interstate jurisdiction.¹⁷ It is therefore clear that the Commission's existing Part 36 rules fairly allocate costs to the appropriate jurisdiction for video dialtone service, and no further amendment is required.

Conclusion

The Commission should deny MCI's and Cox's petitions for reconsideration as meritless.

Respectfully submitted,



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Dated: December 11, 1995

¹⁷ If and when intrastate video dialtone services are offered over the Dover system, an appropriate portion of the Category 2 cable and wire facility costs will also be allocated to the intrastate jurisdiction.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments of Bell Atlantic" was served this 11th day of December, 1995, by United States Mail, first class, postage prepaid, upon the parties on the attached list.

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